

First, I direct that my just debts and funeral expenses be paid out of my estate by my executor as soon after my death as may be practicable.

Second, I devise to my beloved wife, Hulda Zincke, the use, occupancy and enjoyment of my undivided one-half interest in my homestead, being all that three acres of land, out of Section or Ten acre Lot No. 583 in the town of Fredericksburg, Gillespie County, Texas, together with all improvements thereon, being my entire interest in said parcel of land and all improvements thereon, for and during her life; and should we dispose of said property during our lifetime, I devise unto her the use, occupancy and enjoyment of my entire interest in such homestead, as we may own at the time of my death, for and during her life. After the death of my said wife, I devise to my son, Edwin Zincke, the use, occupancy and enjoyment of the said homestead, household and kitchen furniture, and automobiles or vehicles that may then form a part of my estate during his life; and, after his death, said property shall be sold by my executor and the proceeds arising from such sale shall be administered as a part of said estate in accordance with the subsequent provisions thereof.

Third, I bequeath unto my son, Edwin Zincke, the sum of Five Thousand Dollars (\$5,000.00) to be paid to him by my executor as soon as it can be made available.

Fourth: I bequeath to my nephew, Paul Schumann, of Galveston, Texas, the sum of One Thousand Dollars (\$1,000.00) or, in the event he is not then living, to this children; and to my nephew, Albert Schumann, of Galveston, Texas, the sum of Five Hundred Dollars (\$500.00), each of said sums of money to be paid as soon as sufficient cash becomes available.

Fifth, I bequeath to each of the following named persons the sum of Two Hundred Fifty Dollars (\$250.00), to-wit: To my nephews Walter Scheidt and George Scheidt, of Magdeburg, Germany, and to my nieces Helene Arnold, Lillie Scheidt, Frieda Hoff and Lotty Fehre, of Magdeburg, Germany, to my niece Helene Golde, of Karlsruhe, Germany, and Gertrude Scheidt and Liss Scheidt, of Freiburg, Germany, said sums of money to be paid to each of said legatees by my executor as soon as convenient in the administration of my estate, but shall not bear interest.

Sixth, I devise and bequeath to my wife, Hulda Zincke, as trustee, all the residue of my estate, both real and personal, and of whatever kind and character and wheresoever situated IN TRUST, however, for the following uses and purposes, to-wit:

I authorize the trustee to sell, convey, and deliver, manage, partition, exchange, contract for, invest, lend and reinvest, collect and otherwise dispose of my estate or any part thereof, from time to time, upon such terms and at such prices as the trustee may deem best. The principal and income from said trust fund shall be disposed of as follows:

(a) All expenses of administration, maintenance and taxes shall first be paid out of the income of my said estate and, where my estate and my wife's estate are commingled, my estate shall bear its proportionate part of the expenses of maintenance and taxes; and no part of the corpus of my estate shall be used to pay its expenses, unless the income is insufficient. My wife shall be entitled to receive, for her own use and benefit, during the lifetime of my son, Edwin Zincke, all of the income from my estate, remaining after the payment of all expenses of administration, maintenance and taxes.

(b) Upon the death of my said son, if he leaves a child or children surviving him, then my trustee shall deliver all of my estate, then remaining, unto said child or children as soon as it or they will become twenty-one years of age, respectively, and when so delivered

PETSCH & PETSCH  
ATTORNEYS

FREDERICKSBURG, TEXAS

13  
Aunt Hulda knew nothing of the terms of will or my visit in July 1947  
I was not in Germany

the fee simple title to said property shall vest in it or them, it being my intention that, if there be more than one child, each child shall have an receive an equal share of my estate. *No children*

(c) If my said son shall die without leaving any children surviving him, then I direct my trustee to distribute and deliver my estate, then remaining, as soon as practicable, as follows:

One-fourth thereof to my nephew Paul Schumann, or if he is not then living, to his children; *Paul, Clara, Robert*

One-fourth thereof to the children of my sister Marie Scheldt of Magdeburg, Germany, share and share alike.

The remaining one-half shall be divided in six equal portions between the following: My niece, Mrs. Don Miles of Palestine, Texas, shall receive one share; my niece Clara and my nephews <sup>said</sup> August and Eddie, children of my deceased brother Richard Zincke, shall each receive one share, my nephew Albert Schumann, of Galveston, Texas, shall receive one share, and my niece Helene Arnold, of Magdeburg, Germany, shall receive one share. In the event of the death of any of said persons, when my estate is distributed under the provisions of this paragraph, then the share which such deceased person would receive, if living, shall be delivered to the child or children of such deceased person; if such deceased person shall not leave a child or children, then the share such deceased person would receive, if living, shall be divided among the other persons in this paragraph named, or their children in the same manner as the ancestor would take, if living.

Seventh. I appoint my wife Hulda Zincke, executrix of this my last will and testament and as trustee of my estate, and direct that no bond or other security shall be required of her as such executrix and no bond or security shall be required of her as such trustee, in the event my son, Edwin Zincke, during the lifetime of the present wife of my son, and my son be living, then I appoint my son, Edwin Zincke, as trustee to succeed my said wife in management and administration of the trust fund by this will created and provided for, except as hereinafter stipulated; but, before he shall be authorized to take possession of said trust fund and of my estate, he shall report to the County Court of Gillespie County the true condition of said fund and my estate, and he shall administer the same under the direction of said court and he shall enter into a bond in the sum of Ten thousand dollars, for the use and benefit of the beneficiaries above mentioned, said bond to be executed by him and some good and solvent surety company, to be approved by the court; the premiums to be paid out of said trust fund, and said bond to be delivered to and kept by the County Judge of Gillespie County, Texas, or as the law may provide in such cases; and I direct that he shall then carry out the directions contained in paragraph Sixth hereof, except that my said son shall be entitled to retain for himself the whole of the income from said trust fund, remaining after the payment of all expenses of administration, maintenance and taxes, during his lifetime. If my wife shall fail to qualify as executrix or refuse to accept the trust hereby created, then my son shall succeed her as executrix or as trustee, or both, and, upon his compliance with the directions and provisions in this paragraph contained, he shall have the exclusive possession of my said estate, except the homestead, and manage the same as in this will directed and provided. My wife may waive or resign the office of executrix and the office of trustee in favor of my son. And, except as herein provided, I direct that no other action shall be had in any court in the administration of my estate than to prove and probate this my last will and testament and to return an inventory and appraisement of my estate and list of claims.

M. A. Zincke  
McClintock  
made  
copy

Eighth. I direct that the bequests and legacies herein made and provided for shall be paid out of the proceeds of the sale of real estate, other than my homestead, if there be real estate sufficient to make the several sums of money; if there be insufficient real estate, then they shall be paid out of the collection of the principal of promissory notes and other securities; and I further direct that said bequests and legacies be paid in full in the order herein given and my executor shall not be required to pay any bequest or legacy or any part thereof, made in a succeeding paragraph hereof, until the whole of the bequest, in a preceding paragraph made, shall have been paid.

In TESTIMONY WHEREOF, I have hereto set my hand, this the 7th day of July, A. D., 1934.

s/ August Zincke

Signed, declared and published by the testator, August Zincke, as his last will and testament in the presence of us, the attesting witnesses, who have hereto subscribed our names in the presence of the said August Zincke, and in the presence of each other, at his special instance and request, this the 7th day of July, A. D., 1934.

s/ H. E. Wahr mund

s/ Mrs. H. E. Wahr mund

*Note*  
This Will was probated by the Probate Court of Gillespie County, Texas, on the 17th day of August, 1938, as is evidenced by Volume 14, pages 48, 49 and 50 of the County's Probate Minutes. The Judgment named the Testator's surviving widow, Hulda Zincke and his son, Edwin Zincke as Trustees of the Testator's Estate. Under the terms of the Will and the Probate Judgment, the Trustees took possession of the Testator's estate with the right to use the income thereof during their lifetime but were expressly prohibited the use of any part of the corpus of the estate for their personal benefit. *Capital gain?*  
*Co-mingled*

-2-

*(from the estate)*

Following the probate of the Will, an inventory of the estate was presented by the Trustee Hulda Zincke and approved by the Probate Court, wherein the Estate properties are thus described:

No. 1195 ) In the County Court of  
Estate of August Zincke, (deceased) ) Gillespie County, Texas

Inventory and appraisal of the estate of August Zincke, deceased, produced before the undersigned appraisers by Hulda Zincke, independent Executrix of the estate of the said August Zincke, deceased.

Real Estate. Community Property  
1, 100 acres of land in Gillespie County, Texas, known as the Arnold Steidle place, being out of and a part of Survey No 54, originally granted to John Owens, Abstract No. 673, Cert. No. 5097, the one-half interest therein belonging to this estate appraised at \$900.00

2. 160 acres of land in Gillespie County, Texas, known as the Bodo Doeblner place, being situated on South Grape Creek, a tributary of the Pedernales, known as the Eastern half of Survey No. 184, section No. 1, granted to John Hemphill by Patent No. 192, Abstract No. 277, Certf. No. 502, the half interest appraised at \$1,200.00

3. 100 acres of land in Gillespie County, Texas, known as the Henry Grona place, being out of Survey No. 60, grantee Carmen de los Reyes, Certf. No. 56, Abstract No. 591, the half interest appraised at \$ 750.00

4. 335 acres of land in San Saba County, Texas, known as the Frank Thomas place, being a portion of the Elisabeth Uriley League, Survey No. 12, Abst. No. 271, and being the same land deeded by R. F. Thomas et ux to August Zincke on April 15th, 1933, recorded in Vol. 94, page 362, Deed Records of San Saba County, Texas, the half interest appraised at \$ 1,200.00

5. 510 acres of land in Blanco County, Texas, known as the J. J. Staudt place, being 100 acres of land out of and a part of the Frederick Grimes Survey No. 47, Abstract No. 243, 160 acres out of the Frederick Grimes Survey No. 48, Abstract No. 244; 190 acres out of the J. P. Johannesson Survey No. 203, Abstract No. 1542, and 60 acres of land out of the J. H. Tobin Survey No. 160, Abstract No. 594, the half interest appraised at \$ 1,700.00

6. 1303 acres of land in Blanco County, Texas, known as the Otto Kragge place, being 707 acres of land out of Survey No. 96, Certificate No. 109 issued to C. B. & G. N. G. Ry. Co., 502 1/2 acres out of Survey No. 5, 37.4 acres out of Survey No. 98 1/2, patented to Emil Heckel, and 55.4 acres out of Survey No. 84, Certificate No. 184, the half interest appraised at \$ 1,750.00

7. 162 acres of land in Blanco County, known as the Alfred Brodbeck place, being 60 acres, more or less, out of the John W. Craig Survey, Abstract No. 123, patented to Jacob De Cordova, 16 1/2 acres, more or less, out of the Seth Batson Survey, patented to Jacob De Cordova, and 67 acres more or less, out of the Louis and Fred Survey No. 107, Abstract No. 995, the half interest appraised at \$ 750.00

8. Three (3) acres of land in the town of Fredericksburg, Gillespie County, Texas, out of and part of Outlot or Ten Acre Lot No. 583, together with all improvements thereon, and being the homestead of the deceased and his surviving wife, the half interest appraised at \$ 1,500.00

Personal Property, Community

1. One automobile, one-half interest appraised at \$ 150.00

2. Household and kitchen furniture, one-half interest appraised at \$ 200.00

The State of Texas )  
 County of Gillespie ) we, the undersigned appraisers, solemnly  
 swear that the foregoing is a full and fair appraisement of the estate  
 of August Zincke, deceased, produced before us by Hulda Zincke,  
 independent executrix of said estate.

s/ H. L. Fahrnund  
 s/ Ad. Weinheimer  
 s/ Harry Kusenberger

Subscribed and sworn to be fore me, this the 9th day of August, A. D., 1938.

s/ Herman Usener  
Notary Public, Gillespie County,  
Texas.

The following claims are due and owing to August Zincke, deceased, and which said claims are community claims, the surviving widow of the deceased owning an undivided one-half interest in each and every such claim.

Bonds, Stocks and Cash, Community

2 Certificates, American Lutheran Church, Nos 3427, 3428  
@ \$500.00 each

*Actual Value X 2/2,000*

8 shares, Fredericksburg National Bank stock, Ctf # 26,  
par value \$100.00 \$ 800.00

74 shares, Fredericksburg Publishing Co., Certificates Nos.  
12, 17, 44, 45, 52, 72, @ \$12.50 each \$ 925.00

36 Bonds, Harper Independent School Refunding Bonds  
Nos. 2, 4, 6, 23, 25, 24, 35, 36, 37, 38, 39, 40, 41, 42,  
43, 47, 48, 49, 50, 51, 52, 53, 54, 55, 61, 63, 64, 65,  
66, 67, 68, 69, 70, 71, 72 and 73 \$3,600.00

5 United States Savings Bonds, dated April 1st, 1935, Nos.  
012306-07-08-09-10, present value \$390.00 each \$1,950.00

3 United States Savings Bonds, dated May 1st, 1937, Nos.  
0176386-87-88C, present value \$760.00 each \$2,280.00

6 United States Savings Bonds, dated Sept. 1st, 1937, Nos.  
028463-64-65-66-67-68C, present value \$375.00 each \$2,250.00

3 2/7/8 United States Treasury Bonds, 1955-1960, Nos.  
27570L, 27578J, and 27577L @ \$1,000.00 each \$3,000.00

2 3 1/4 United States Treasury Bonds, 1944-1946, Nos.  
14097H, 46961A @ \$1,000.00 \$2,000.00

5 4 1/4, 3 1/4 1943-45 United States Treasury Bonds,  
Nos. 60286F, 60287H, 60288J, 60289K and 60290L  
@ \$1,000.00 each \$5,000.00

4 Home Owners Loan Corporation Bonds, Nos. A1562755A,  
A1562756F, A1562757H and A1562758J @ \$100.00 each \$ 400.00

6 3% Federal Farm Mortgage Bonds, 1944-49, Nos.  
105663L, 105664D, 105665L, 105720L, 105719L and  
105722L @ \$100.00 each \$ 600.00

1 3% Federal Farm Mortgage Bond, 1944-49, No. 42370L \$ 500.00

3 3% Federal Farm Mortgage Bonds, 1944-49, Nos  
16086F, 16087H, 126907H @ \$1,000.00 each \$3,000.00

On deposit in the Fredericksburg National Bank,  
Fredericksburg, Texas \$3,169.66

On deposit in the Moore State Bank, Llano, Texas \$2,326.19

On Deposit in the First National Bank, Yorktown, Texas \$ 835.10

Notes - Community, Deceased owning 1/2 interest.

Maker	Date	Maturity	Rate	Principal
Albert Birk	Dec 9, 1924	Dec 9, 1939 7%	\$3,100.00	
	Secured by V/L on 30 1/2 acres of land in Llano County out of Survey No. 95, Abstract No. 579, originally granted to Robert Price			
Hugo C. Baumann	Jan 17, 1935	Jan 17, 1936 7%	\$ 300.00	
		Jan 17, 1935 Jan 17, 1941 7%	400.00	
		Jan 17, 1935 Jan 17, 1943 7%	400.00	
	Secured by Deed of Trust on 482 acres in Gillespie County being 320 acres out of Survey No. 909, and 162 acres out of Survey No. 401, patented to Joseph Lange			
Levill Beckmann and Lemina Beckmann	Jan 3, 1936	Jan 3, 1937 6%	\$1,000.00	
		Jan 3, 1936 Jan 3, 1938 6%	1,000.00	
		Jan 3, 1936 Jan 3, 1939 6%	1,000.00	
	Secured by Deed of Trust on 210 acres in Gillespie County out of Survey No. 7, originally granted to J. M. Trebino, and Survey No. 5, originally granted to J. J. Guerrera.			
Willie Cornish	Dec 15, 1936	Dec 15, 1941 6%	\$3,000.00	
	Secured by Deed of Trust on 108 acres in Gillespie County, out of Survey No. 336, granted and patented to Chas. J. Lang, Survey No. 149, patented to S. W. Ford, L and L Survey No. 149, patented to the heirs of Henry Spencer and Survey No. 163, originally granted to the heirs of Henry Spencer; also Chattel Mortgage on 320 nanny goats and 318 ewe sheep			
Henry J. Durst	Jan 1, 1936	Jan 1, 1937 8%	\$ 125.00	
	Personal Note			
W. R. Egg	Mar 26, 1935	Nov 1, 1938 6%	\$2,200.00	
	Secured by Deed of Trust on 150 acres in DeWitt County, a part of the Patrick Dowlearn Survey			
W. R. Egg	Dec 30, 1937	Dec 30, 1942 6%	\$1,800.00	
	Secured by V/L on 230.3 acres in DeWitt County, a part of the Mumford House League, J. T. Pettus League and Thos. H. Bell League			
Ad. Evers and Clara Evers	Oct 21, 1935	Oct 21, 1936 6%	\$1,000.00	
	Personal Note			
W. R. Edwards	June 7, 1920	Dec 7, 1936 5%	\$7,250.00	
	Secured by 2nd V/L on 1932.3 acres in the Counties of Kerr and Bandera, (1) 273 acres of land out of Survey No. 4, Cert. No. 1029, patented to Julius Real, (2) All of Survey No. 2536, Julius Real, containing 25 6/10 acres of land, (3) 320 acres out of Sur No. 4, Cert No 1321, J. Real (4) All of Sur No. 3, Scrip No. 1321, A B & M except 2 3/8 acres out of its N E corner, leaving 317.7 acres			

- (5) All of Sur No 1, A B & M Scrip No 1/3, 640 acres
- (6) 27 1/2 acres out of Sur No 3, A B M Scrip No 1029 lying along West line of said Surv No 3
- (7) 4 acres out of N W Corner No 3, A B & M Scrip No 1321
- (8) 43 acres of land out of Sur No 1, A B & M Scrip No. 1321
- (9) 106 acres out of Sur No 8, Cert No 47, C C S P & R G N C Ry Co
- (10) 55 acres of land out of Sur No 7, Cert No 47, C C S P & R G N Ry Co
- (11) 1 3/4 acres of land out of Sur No 8 Cert No 47, C C S P & R G N G Ry Co
- (12) 1 3/4 acres of land out of Sur No 1, A B M Scrip No 1321

Mrs Verdie Fletcher Feb 4, 1937 Feb 4, 1939 5% \$2,100.00  
and W. E. Fletcher /

Secured by Chattel Mortgage on 26 head of cattle,  
475 nannie goats, 50 mutton kids, and 100 sheep

J Richard Fritz, Karl  
Fritz & Ida Fritz  
Personal Note

Feb 9, 1938 Feb 9, 1939 5% \$ 300.00

Jacob Fritz

Nov 6, 1933 Nov 1, 1934 6% 220.00  
Nov 6, 1933 Nov 6, 1935 6% 220.00  
Nov 6, 1933 Nov 6, 1936 6% 220.00

Scarred by Chattel Mortgage on 1 mule, 3 horses, 1 mare  
1 threshing machine and 1/2 undivided interest in all  
crops for 1931 and each succeeding year thereafter until  
indebtedness is paid

JACOB BECK

June 23, 1922 Oct 23, 1935 6% 440.00

Secured by 2nd V/L on 132.6 acres in Elllespie County  
out of and a part of the east half of Sur No 165 originally  
granted to Robert W. Porter and patented to Joseph A  
Tivy, assignee

Jacob Witz

Jan 21, 1929	Jan 21, 1936	7%	\$ 400.00
Jan 21, 1929	Jan 21, 1937	7%	400.00
Jan 21, 1929	Jan 21, 1938	7%	400.00
Jan 21, 1929	Jan 21, 1939	7%	400.00
Jan 21, 1929	Jan 21, 1940	7%	400.00
Jan 21, 1929	Jan 21, 1941	7%	400.00
Jan 21, 1929	Jan 21, 1942	7%	400.00

secured by 2nd Lien Deed of Trust on 320 acres in Gillespie County, known as Jose Antonio Navarro survey No 167 in section No 1, saving and excepting 16 acres, more or less, conveyed by the rese Frits et al to Albert Kaderlie

Henry Hartmann,  
Adolph Usener and  
Henry Woellendorff

May 1, 1934 June 1, 1937 5% 100.00  
May 1, 1934 June 1, 1938 5% 200.00

## Personal Notes

Wiley, N.Y., 1949.

Installments 5% \$650.00

**PETSCH & PETSCH**  
ATTORNEYS  
FREDERICKSBURG, TEXAS

2

Henry C. Kirk Dec 28, 1928 Dec 28, 1940 5% \$500.00  
 Dec 29, 1928 Dec 28, 1940 5% 1,100.00  
 Secured by 2nd V/L on 234 acres, more or less, in  
 Gillespie County, out of Alexander Bell Survey No 229

Chas Klein Jr Nov 30, 1926 Nov 30, 1947 5% 1,500.00  
 Secured by V/L on 250 acres in Gillespie County, being  
 out of and part of Herman University League, Survey  
 No. 161

R. S. Klett Nov 40, 1926 Nov 28, 1939 6% 600.00  
 Secured by 20 shares Fredericksburg Publishing Co.  
 stock, Certificates Nos. 121 and 131

Otto Kneese and July 1, 1931 Apr 1, 1936 7% 571.10  
 Max Kneese  
 Secured by 2nd Deed of Trust Lien on 200 acres of land  
 in Gillespie County, out of and apart of Survey No 59,  
 originally granted to Daniel Garcia

Albert Kordzik and Oct 10, 1934 Oct 10, 1937 6% 1,900.00  
 Ella Kordzik  
 Secured by Deed of Trust on 675 acres in the Counties  
 of Mason and Gillespie, as follows: 280 acres in Gilles-  
 pie County, Sur No 820, patented to Gottfried Trebs,  
 160 acres in Mason Co., originally granted to Peter  
 Birkelbach  
 160 acres in Mason Co., Survey No 1, patented to James  
 D. Keyser,  
 75 acres in Mason County, granted on pre-emption Cert.  
 No. 5, issued to Daniel Birkelbach

Mrs. Edna Kettner Kothmann Nov 1, 1936 Nov 1, 1934 4% 5,600.00  
 and Damon Kothmann  
 Secured by Deed of Trust on 640 acres in Kendall  
 County, Texas, Survey No 2168, Cert No 158, orig-  
 inally granted to Fisher and Miller

Alfred Kramer Oct 24, 1928 Oct 24, 1938 5% 11,500.00  
 Secured by V/L on 1061 acres in Gillespie County, being  
 275.5 acres out of the S. B. Turner No. 66,  
 461.5 acres out of the S. B. Turner No. 64, and  
 324 acres out of the T. F. R. F. Co Sur No. 72

August Kung and Jan 4, 1926 Jan 4, 1936 5% 1,000.00  
 Alfred Kung  
 Secured by Deed of Trust on 35 acres, more or less, in  
 Gillespie Co., part of Sur No. 52 in the name of Jose  
 Ignacio Molasco

Edward Langbein Mar 3, 1929 Mar 3, 1939 7% 8,700.00  
 Secured by V/L on 383 acres in Blanco County, being  
 (1) The Ruth Miller Survey No. 322<sup>1/2</sup> 77 acres J. M.  
 Smith Survey No 324, and (3) parts of the D. Lewis Survey  
 No. 329 and the C. H. McLendon Survey No. 342

Emil Lindig and Dec 12, 1936 Nov 11, 1937 6% \$400.00  
 Max Lindig  
 Personal Note

Emil Lindig and Mar 2, 1936 Mar 2, 1937 6% 1,200.00  
 Max Lindig  
 Personal Note

Emil Lindig and January 28, 1937 July 1, 1937 6% 125.00  
 Max Lindig

Theophil Leonhardt and Dec 15, 1936 Dec 15, 1938 6% 50.00  
 Max Lindig Dec 15, 1936 June 15, 1939 6% 50.00  
 Dec 15, 1936 Dec 15, 1939 6% 50.00

Edward Lorenz Feb 13, 1931 June 1, 1941 5% 475.00  
 Secured by 2nd Deed of Trust Lien on 77 acres of land  
 more or less, in Gillespie County, out of and a part of  
 Survey No. 233, originally granted to Samuel Woods

Robert Moritz, Joseph Apr 27, 1934 Oct 18, 1934 7% 200.00  
 Moritz and Emil Kolmetier Apr 27, 1934 Oct 18, 1935 7% 190.00  
 Personal Note

Henry Moellendorf and Dec 17, 1929 Dec 17, 1940 7% 1,250.00  
 Anna Moellendorf Dec 17, 1929 Dec 17, 1941 7% 1,250.00  
 Secured by 2nd Deed of Trust Lien on 763 acres in  
 Gillespie Co., being 643 acres, the south part of 1092  
 acres Survey No. 545, patented to W. S. Dedman less  
 200 acres homestead, and 160 acres known as the N E  
 1/4 of School Section No. 10, located by virtue of Cert  
 No. 1/525, issued by B. S. & R. 160 acres, the S E 1/4  
 of Section No. 10, located by virtue of Cert No. 1/525,  
 issued to H. S. & R.; also chattel mortgage on 600 goats  
 and 160 sheep

Edward C. Moellering July 1, 1933 Feb 16, 1935 6% 40.00  
 Personal Note

J. B. Maddux Sept 1, 1937 Oct 1, 1946 6% 5,000.00  
 Secured by V/L on Survey No. 23, Cert No. 1315 G H & S A Ry  
 Co., Abstract No. 185, patented to G H & S A Ry; and  
 Survey No. 26, Cert No. 1316 issued to G H & S A.  
 Abstract No. 1496, patented to F. M. Hull, each sur-  
 vey containing 640 acres in Kimble County, Texas

Ed. Metzger Dec 30, 1935 Dec 30, 1940 6% 550.00  
 Secured by V/L on 100 acres in Mason County, being  
 West part of the North half of H & G N Ry Co., Survey  
 No. 7. Said note is signed by Clarence Metzger and  
 Sam Metzger and payable to Peter Metzger.

Erwin Neffendorf and May 10, 1934 May 16, 1936 6% 250.00  
 Alfred Neffendorf

George Oehler and Dec 20, 1935 June 20, 1943 6% 2,250.00  
 Lillie Oehler  
 Secured by Deed of Trust on 246 3/4 acres land in Llano  
 County, Texas, being 146 acres of land patented to W. S.  
 Chesser, May 4th, 1884 by Patent No. 148, Vol 17,  
 known as Abstract No. 1202, and 102 3/4 acres, part of  
 the Robert Price Survey No. 95, Abstract No. 579; also  
 chattel mortgage on 20 cows.

Seth D. Rode Feb 24, 1938 Feb 24, 1953 5% 6,000.00  
Secured by Deed of Trust on 741 acres in Gillespie  
County, embracing 188 acres of Survey No. 954,  
Abstract No. 83, 320 acres of Survey No. 203,  
Abstract No. 912, and 233 acres of Survey No. 625,  
Abstract No. 1199

Kurt Solbrig Jan 10, 1928 Jan 10, 1948 6% 2,000.00  
Secured by Vendor's Lien on 157 acres in Gillespie  
County, same being 160 acres of land, Survey No 207,  
patented to Joe McDonald, Jan 10, 1884, less 3 acres  
thereof out of S E corner of said Survey No. 207

Felton Smathers and May 1, 1936 Nov 1, 1946 6% 4,500.00  
Belle Smathers  
Secured by Deed of Trust on 1219 acres, more or less,  
in Llano County, Texas, being 534 3/4 acres of land,  
more or less, known as the N E 1/4, the S E 1/4 and the  
N W 1/4 of the S A & M C R R Co Survey No. 4, Cert No.  
31/328; 178 3/10 acres of land, more or less, known as the  
G W Meredith Survey, Abstract No. 1355, Cert No. 21/329;  
279.9 acres of land, more or less, known as the North part  
of the S A & M C R R Co No 6, Certificate No 21/329,  
Abstract No. 1156; the H Anderson Survey of 1,8 1/2 acres  
of land, more or less, Abstract No. 15, patented to W. A.  
Pitts

Willie Staudt Jan 4, 1937 Jan 4, 1939 5% 200.00  
Personal Note  
W. K. Straube and Oct 15, 1919 Oct 15, 1940 5% 900.00  
Edward Straube  
Secured by 2nd V/L on 320 acres in Gillespie County,  
known as Survey No 205, Scrip No 7429, patented to Hy  
Strackbein, and 110 acres, more or less, out of Survey  
No. 438 in the name of U M Jones

W. F. Stribling Dec 28, 1936 Dec 28, 1950 5% 5,250.00  
Secured by V/L on 951 acres in Llano County, being  
600 acres of land, a part of the 938 acre tract patented to  
John Kopf, original grantee, by Patent No. 231; and 351  
acres out of and a part of a tract of land patented to John  
Ingram by Patent No 128, known as Survey No. 225,  
Abstract No. 417

Albert Sagebiel, Henry Nov 15, 1927 Nov 15, 1947 5% 4,200.00  
Sagebiel and Ben Sagebiel  
Secured by 2nd V/L on 742.9 acres in Kimble County, 253.8  
acres, Abat 505, Survey 623, Cert 20/364, S A & M C Ry Co.,  
original grantee, 130.5 acres, Abat 1553, Survey 55, Cert 1576,  
G H & S A Ry Co., 72.6 acres, Abstract 1554, Survey 56,  
Cert No 1576, G H & S A Ry Co, original grantee, and 266.0  
acres, Abat 508, Survey 624, Cert 20/363, S A & M C Ry  
Co, original grantee.

J. E. F. Smith and Agatha Smith Feb 29, 1938 Feb 28, 1948 6% 4,600.00  
Secured by Deed of Trust on 1,000 acres of land in the  
Counties of Gillespie and Blanco, not more or less of the  
1/3 League of land known and designated on the map of  
Gillespie County as Survey No. 194, patented to the heirs  
of Regia Mercer, dec'd

J. W. Thomas Dec 1, 1915 Dec 1, 1938 7% 1,022.50  
Secured by V/L on 200 acres of land, more or less, in  
County, out of Survey No. 231, originally  
granted to A. V. Schott

Martin Wendel May 1, 1929 May 1, 1943 6% 5,000.00  
Secured by a V/L on 259 acres in Llano County, (1) 160  
acres patented to J. M. Mays by Patent No 2, Abst 987,  
(2) 60 acres of the Wm Gillicland Survey, Abst 306,  
(3) 39 acres of the G C & S F Ry Co, Survey No 1, Ab-  
stract No. 961

John West Jan 10, 1938 Oct 1, 1938 6% 22.00  
Personal Note

Herwin A. Wehmeyer and  
Wm Klein Sr Jan 27, 1938 Jan 27, 1939 5% 100.00  
Personal Note

Emil Wendel Feb 1, 1923 Feb 1, 1946 5% 2,000.00  
Secured by Deed of Trust on 51 acres in Gillespie  
County, being part of and out of the H. W. Reider  
Survey No. 812, patented to H. W. Reider

Emil Wendel Oct 23, 1924 Oct 23, 1938 5% 2,000.00  
Secured by V/L on 49.41 acres of land in Gillespie  
County, embracing and comprised of 6 acres of land  
out of and part of H. W. Reider Survey No. 811, and  
33.41 acres of land, the North part of the Carl Durst  
Survey No. 98

Gus Wendel and  
John Wendel Feb 1, 1933 Feb 1, 1936 6% 200.00  
Personal Note

The State of Texas  
County of Gillespie

I, Hulda Zincke, do solemnly swear that the foregoing inven-  
tory and list is a full and complete inventory and list of the property  
and claims of August Zincke, deceased, my testator, that have come  
to my knowledge.

s/ Hulda Zincke

Subscribed and sworn to before me, this the 8th day of August,  
A.D., 1938

s/ Herman Usener  
Notary Public, Gillespie County, Texas

-3-

The Trustee, Hulda Zincke, died February 14, 1951. Due to being  
totally inexperienced in the matter of loaning money, collecting notes, investing  
the estate funds and management of real properties owned by the estate, from  
the beginning of the Trust, Hulda Zincke left the possession and management  
of the estate properties with the Successor Trustee Edwin Zincke. As a re-

sult, the possession and management of the trust property from the inception of the Trust until the death of Hulda Zincke constituted a joint responsibility of the Trustees and from that time until Edwin Zincke's death, he was in sole control. On this account, Edwin Zincke was during the entire existence of the trust charged with the duty to preserve the corpus of the estate and its increased value for the benefit of the residuary legatees, the Plaintiffs in this cause. While in such charge - but without ever having accounted for the management of the estate to anyone - as Paragraph "Seventh" of the Will required - Edwin Zincke died childless on the 12th day of November, 1957. Upon his death, his wife, the Defendant, Mrs. Edwin Zincke, took possession of the estate, and with the exception of the portion heretofore turned over to the court-appointed Receiver, retains possession thereof. Due to Edwin Zincke not being survived by a child, under the express provision of the Will, Plaintiffs became and are the owners of the entire corpus of the estate; and the Defendant, as sole legatee of the trustee Edwin Zincke and the owner of his Estate, is legally obligated to account to Plaintiffs and to deliver them the entire August Zincke Estate.

四

The former Defendant, First National Bank of Yorktown, having delivered the \$29,232.27 of estate properties since the filing of this suit - left in its possession by the Defendant, Mrs. Edwin Zincke - to the Receiver, C. O. Balsor, said Bank has completely discharged the liability to all parties in this cause and for such reason is no longer named a Defendant in this pleading, but is nevertheless entitled to have judgment decreeing it free of all liabilities to the owners of the Testator's Estate. It having become known to Plaintiffs that the formerly-named Defendant Webb Hawkins - surviving husband of the legatee Clara Zincke Hawkins - is dead and that his wife died childless, as a result of which neither said Defendant nor his heirs have any interest in this cause, the Defendant Webb Hawkins's name is accordingly dropped as a Defendant in this cause. The Plaintiff Albert Schumann died on July 2, 1958, survived by his three children, the hereinafter-named Plaintiffs, A. O. Schumann, Jr., Mrs. Alton Meyer and Mrs. Stanley McDonald, and Paragraph "Sixth" of the herein-

**PETSCH & PETSCH**  
ATTORNEYS  
**FREDERICKSBURG, TEXAS**

12)

before set out Will providing that such children upon Albert Schumann's death succeed to all of his rights in this cause, the name of Albert Schumann is accordingly dropped as a Plaintiff in this cause.

-5-

Had all the residuary legatees named in the Will been alive at the time of the vesting of the Testator's Estate in such legatees, their interest in the estate would have been as follows: Paul Schumann would have received 180/720 part of the estate (Dec'd March 29, 1946, survived by his three children, the Plaintiffs Paul Schumann, Clara Chamness and Robert Schumann); Mrs. Don Miles would have received 60/720ths part; August Zincke would have received 60/720ths part; Eddie Zincke would have received 60/720ths part; Clara Zincke Hawkins would have received 60/720ths; Albert O. Schumann would have received 60/720ths part; Helene Arnold would have received 60/720ths part; and the children of Marie Scheidt, being Walter Scheidt, Frieda Hoff, Gertrud Scheidt, Elisabeth Scheidt, Helene Goide, George Scheidt, Else Scheidt, Marianne Scheidt, and Charlotte Fohre, would have received 20/720ths part each.

-6-

Due to the death of several of the legatees named in the Will, who were survived by their children, as heretofore and hereinafter is set forth, and the provision of the Will's Paragraph "Sixth", in part reading:

"In the event of the death of any of said persons (the designated legatees) when my estate is distributed, then ... the share which such deceased would receive, if living, shall be delivered to the child or children of the deceased persons ..."

requires construction and application to the facts in order to enable the Court to determine and decree the ownership of the estate among the parties to the cause. To reach this decision, it is suggested that the Court must determine and decree at what time or upon what occasion the estate became vested in the residuary legatees, the parties Plaintiff. Such vesting of ownership in such legatees occurred either on May 17, 1938, the date of the death of the Testator, or on November 12, 1957, the date of the death of Edwin Zincke, or on the date of the rendition of the judgment in this cause.

Under the provisions of the Will the vesting of the estate in the residuary legatees was made contingent solely on the Testator's son, Edwin Zincke, dying without a child surviving him. Children might well have been born to him during the early part of his 19 years of married life in which he survived his father, and equally Edwin Zincke could have adopted a child at any time prior to his death. The happening of either of such events would have defeated ownership in Plaintiffs. Thus, the possibility of Plaintiffs being deprived of the Estate was foreclosed with Edwin Zincke's death without being survived by a child - natural or adopted - and the fact of Edwin Zincke dying childless of itself finally vested the Estate in Plaintiffs. From this it appears to follow that the Court should decree that the ownership of the Estate vested in the legatees who were alive and/or their children surviving on November 12, 1957 - the occasion of Edwin Zincke's death.

-7-

Had the legatees designated as "children of Marie Scheidt" - hereinbefore named - survived Edwin Zincke, each, as aforementioned, would have become the owner of a 20/720ths interest in the 180/720ths part of the estate bequeathed to them jointly as the "children of Marie Scheidt"; however, of these legatees, Walter Scheidt died January 7, 1957, survived by his child Johannes Scheidt and two grandchildren, Joachim Dannenberg and Ursula Dannenberg - children of Ilse Scheidt Dannenberg, the only other child of Walter Scheidt - as a result, by virtue of the aforementioned provision of the Will, the Plaintiff Johannes Scheidt became the owner of a 10/720ths part and the Plaintiff Dannenberg each became the owner of a 5/720ths part. The legatee Helene Golde died January 10, 1958, survived by her only child, the Plaintiff Ernst Golde; he thereby became the owner of the 20/720ths part which his mother would have received had she survived Edwin Zincke.

The legatee August Zincke died August 24, 1946, survived by an only child, the Plaintiff, George Zincke; he, by virtue thereof and the mentioned provision, became the owner of the 60/720ths part of the estate bequeathed to

his father.

The legatee Eddie Zincke died prior to the death of Edwin Zincke, survived by his only child, the Plaintiff Louise Romagna, who, under the before-quoted portion of the Testator's Will, became the owner of the 60/720ths part bequeathed to her father.

The Legatee Albert Schumann having died July 2nd, 1958, survived by the Plaintiffs Albert Schumann, Jr., Mrs. Alton Meyer and Mrs. Stanley McDonald, they jointly became the owners of their father's 60/720ths share of the estate.

The other residuary legatees, remaining Plaintiffs, are the owners of the other 360/720ths part of the estate.

-8-

Construction of the meaning and application of a portion of Paragraph numbered "Sixth" of the Will, reading:

"... if such deceased person shall not leave a child ... then the share such deceased person would receive, if living, shall be divided among the other persons in this paragraph named or his children in the same manner as the ancestor would take if living."

is required in order to establish how or in what ratio the hereinafter-accounted for 120/720ths portion of the Testator's Estate (which due to the death of several of the legatees without being survived by a child, LAPSED) is to be divided among the Plaintiffs, i.e., whether the ownership claimed by Plaintiffs is based upon the correct construction of this provision of the Will.

Of the "children of Marie Scheidt", Marianna Scheidt died October 28, 1901; Charlotte (Scheidt) Fehrt died on July 24, 1952, and Else Scheidt died May 30, 1939. The Legatee Clara Zincke Hawkins died February 20, 1940. Neither of these four Legatees was survived by a child. The Marie Scheidt children were jointly bequeathed a 60/720ths interest and such was the bequest to Clara Zincke Hawkins. It is submitted that as a result of these Legatees having died childless, the Court should decree that said 120/720ths LAPSED interest became the added legacy and property of the Legatees who survived Edwin Zincke and that because of this added legacy, each of the Plaintiffs,

Paul Schumann, Clara Chammess, Robert Schumann, Mrs. Don Miles, George Zincke, Louise Romagna, and the Plaintiffs Albert Schumann Jr., Mrs. Alton Meyer and Mrs. Stanley McDonald jointly, became the owner of a 60/600ths part of the Estate; the Plaintiffs Frieda Hoff, Gertrud Scheidt, Elisabeth Scheidt, Ernst Golde, Georg Scheidt, each became the owner of a 20/600ths part of the estate; Plaintiff Johannes Scheidt became the owner of a 10/600ths part, Joachim Dannenberg and Ursula Dannenberg each became the owner of a 5/600ths part of the Estate, and Plaintiffs Lucie Borresen, Hans J. Arnold, Hale Arnold and Erna Koch each became the owner of a 15/600ths interest - being the remainder of the Testator's Estate.

-9-

The hereinbefore in the inventory-described Testator's Estate, while in possession and control of the Trustees, was, with the exception of the properties hereinafter identified, converted into cash, from which conversion the Trustees realized not less than the following: from the Stocks and Bonds, \$15,186.56; from the Notes, \$73,571.19; from Real Estate, \$21,250.00; and from his automobile, \$500.00. Adding to these proceeds, the \$3,240.01 cash on hand at the Testator's death, placed the Trustees in possession of at least \$95,749.56. Out of this sum, however, the Trustees apparently paid out for administration expenses, debts and bequests to others than the residuary legatees, the sum of \$10,779.82. Crediting these payments, left the Trustees in possession of and accountable to Plaintiffs for at least \$84,969.74 of the sum realized in converting the heretofore identified portion of the Estate into cash.

In addition to \$29,232.27 heretofore mentioned as having been turned over to the Receiver, the Defendant delivered to the Receiver \$50,000.00 face value of U. S. Government Bonds, bringing the total Estate delivered by the Defendant out of the converted part of the estate to \$79,232.27. Therefrom it appears, and Plaintiffs assert that the Hulda Zincke and Edwin Zincke - Trustees' - Estates remain indebted to Plaintiffs in an amount of at least \$5,737.47 on the converted portion of the Testator's Estate.